DOCUMENT RESUME

ED 268 882 HE 019 247

AUTHOR Olivas, Michael A.; Swickard, Janet
TITLE Postsecondary Residency Requirements: Exceptions, Exemptions, and Waivers. ASHE 1986 Annual Meeting Paper.
PUB DATE Feb 86
NOTE 71p.; Paper presented at the Annual Meeting of the Association for the Study of Higher Education (San Antonio, TX, February 20-23, 1986).
PUB TYPE Speeches/Conference Papers (150) -- Reference Materials - General (130)

EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS American Indians; College Students; *Eligibility; Fringe Benefits; Government Employees; Marital Status; Military Personnel; *Postsecondary Education; *Public Policy; *Residence Requirements; Self Supporting Students; *State Government; *Tuition; Tuition Grants
IDENTIFIERS *ASHE Annual Meeting

ABSTRACT

A reference guide to residency requirements for colleges and universities is presented. Six types of state governance patterns concerning residency are identified, along with the states that follow each pattern. Circumstances and conditions that may affect residency classification for tuition purposes (excluding alienage, marital status, or military qualifications) are specified, and the number of states that list each consideration is indicated. Information is also provided on: marital status as a basis for classification as a resident; classification of non-U.S. citizens as residents; and residency classification and tuition benefits for military personnel, their spouses, and dependent children. Also covered are circumstances affecting tuition benefits for: American Indians, public employees, scholarship recipients, individuals when parent/spouse/student comes to state for employment, students subject to loss of residency due to divorce, the visual and hearing impaired, graduates of state high schools, senior adults, and students with skill in specified areas. Information is also provided on tuition benefits based on financial need, establishment of residency for emancipated minors, and retention of resident tuition status for minors whose parents leave the state. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

HE 019 247

University of Houston
University Park
Houston, Texas 77004

Institute for Higher Education Law and Governance
Farish Hall Suite 415
(713) 749-2557

ED268882

POSTSECONDARY RESIDENCY REQUIREMENTS:

EXCEPTIONS, EXEMPTIONS, AND WAIVERS

Michael A. Olivas
Associate Professor of
Law and Education
University of Houston,
University Park
Houston, TX 77004

with the assistance of Janet Swickard,
UH Doctoral student and IHELG Research Assistant

HE 019 247

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Michael A. Olivas

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

ASHE Association for the Study of Higher Education
The George Washington University/One Dupont Circle, Suite 630/Washington, D.C. 20036
(202) 296-2597

This paper was presented at the Annual Meeting of the Association for the Study of Higher Education held at the Gunter Hotel in San Antonio, Texas, February 20-23, 1986. This paper was reviewed by ASHE and was judged to be of high quality and of interest to others concerned with the research of higher education. It has therefore been selected to be included in the ERIC collection of ASHE conference papers.

Postsecondary Residency Requirements
(by State Governance Pattern)

Type I

State legislature determines residency policies (20)

AZ	NV
CA	NJ
CO	NY
CT	NC
HI	ND
ID	SC
KS	TX
MS	UT
MT	VA
NE	WA

Type II

State legislature explicitly gives residency determination to state agency or coordinating board (7)

FL	NM
GA	SD
MN	WI
MO	

Type III

State legislature explicitly gives residency determination to state institutions (1)

NH

Type IV

State code is silent, state agency or coordinating board has assumed the determination (7)

IA	PA
OH	RI
OK	WV
OR	

Type V

State code is silent, state institutions have assumed the determination (16)

AL	LA
AK	ME
AR	MD
DE	MA
DC	MI
IL	TN
IN	VT
KY	WY

In addition to the complex residency requirements and governance noted in earlier IHELG monographs, there are an extraordinary number of exceptions, exemptions, and waivers. While the most common are in the areas of alienage, marital status, and military service, there are literally thousands of exceptions to residency requirements. The data suggest several patterns, even if the statutory or regulatory language differs among the states.

The most striking feature among these patterns is how few have anything to do with the concepts of duration or domicile. In some instances, the exceptions are aimed at classes of persons who are mobile (military, migrants) or for whom domicile is difficult to determine (aliens, spouses). However, the largest class is those for whom residency (or tuition waivers) is a conferred benefit, without reference to duration or intent.

N.B. These data are part of a larger national study being conducted by the Institute for Higher Education Law and Governance, University of Houston. For additional studies or information, contact the Institute.

SUMMARY OF
CIRCUMSTANCES and CONDITIONS other
than ALIENAGE, MARITAL STATUS,
or MILITARY QUALIFICATIONS which may
AFFECT RESIDENCY CLASSIFICATION for
TUITION PURPOSES

Circumstances and Conditions	Number of states listing this consideration
Resident students whose parents leave the state retian resident classification as long as they they maintain continuous enrollment or for a specified time, usually one year.	27
Tuition benefits for university employees	17
Tuition benefits for students demonstrating financial need	16
Graduate assistants research fellows, teaching assistants, etc. are classified as residents for tuition purposes	12
Resident status for students whose parent or spouse comes to state for employment	11
Senior adults, usually 60+ or 62+ receive tuition benefits	10
Tution benefits for Indians	9
Tuition benefits for children of deceased or disabled law enforcement officers, firemen, etc.	8
Public school teachers qualify for tuition benefits	8
Discretionary waiver of non-resident tuition by Board of regents or other	7
Blind students qualify for tuition benefits	5
Graduates of a high school within the state qualify for classification as residents even if do not otherwise qualify	5
Discretionary waiver of non-resident tuition for students presenting "extraordinary circumstances"	5
Resident status for students who re employed full time in the state and are part time students	4
Tuition benefits for scholarship recipients	4

Migrant students may qualify for residency on basis of time spent in the state during the past 3-6 years	4
Resident classification for state employees and federal service employees	3
Classification as resident for tuition purposes for former resident students who have been absent from state for less than specified time	3
Tuition benefits for students with major in specific areas, majoring in fields critical to the state, etc.	3
Tuition benefits for students residing in specific location	2
Tuition benefits for participants in intern programs	2
Waiver of non-resident tuition for summer school students	2
Highest ranking high school graduates qualify for tuition benefits	2
Students who no longer qualify for resident status due to the divorce of parents may retain classification for tuition purposes	2
Tuition benefits for "well qualified" students	2
Prisoners may be accorded resident status while incarcerated	2
Resident classification for teachers in post-secondary institutions	1
Individuals who attended public schools in the state for a specified time period may qualify as residents for tuition purposes	1
Hanai (Hawaii) (De facto quardianship)	1
Students under control of adults who are not parents for at least 2 years preceding enrollment providing those adults are residents of the state	1
Classification as resident for tuition purposes for students from states, nations, etc. with no higher ed programs	1
Tuition benefits for high school gradutes who were residents of the state home	1
Waiver of non-resident tuition for tuition purposes for students whose parent graduated from a state institution of higher education	1
Agriculture students attend tuition free	1

MARITAL STATUS as a BASIS
for CLASSIFICATION as a
RESIDENT for TUITION PURPOSES

Circumstances and Criteria Related to Classification as Resident for Tuition Purposes on Basis of Marital Status	Number of States Relying on These Circumstances/Criter
Spouse of military stationed in state is classified as a resident for tuition purposes	31 + 1 proposed
Non-residents who marry residents qualify for classification as residents at next registration	14
Non-resident spouse of university employee may be classified as resident for tuition purposes	10 + 1 proposed
Marriage alone does not result in gain or loss of resident status	12
Information regarding spouse's occupation, future plans in the state, etc is considered in making residency determination	7
An emancipated person employed full-time in the state may apply for immediate residency for spouse	4
Non-resident student may base application for residency on own or spouse's indicia	2
Non-resident may establish residency on basis of common law marriage	1

CLASSIFICATION of NON-U.S. CITIZENS as RESIDENTS for TUITION PURPOSES

Circumstances and Conditions under which non-U.S. citizens may qualify for classification as residents for tuition purposes	Number of states in which this is applicable
Noncitizens must establish domicile in the same way as citizens and must hold a type of visa which permits establishment of domicile in the state	31
Parolee/refugee status permits establishment of domicile	7
Non-resident tuition for citizens and residents of another country may be waived or reduced if attending under auspices of government agency or non-profit organization encouraging good will	5
Trustees can waive or reduce non-resident tuition for aliens of outstanding ability	5
Institution may waive non-resident tuition	5
A non-resident alien student married to a person who qualifies for resident status may be classified as a resident for tuition purposes	5
Waiver of non-resident tuition for exchange students from other countries	5
Foreign students with student visas who enroll in specified programs may pay resident tuition	1
Service in U.S. Armed Forces entitles a non-citizen to same residency determination criteria as citizens	1
Free tuition to aliens who have resided in state 6 months or whose parents are residents even if parents are aliens (must apply for benefit)	1
Non-U.S. citizens who are are residents, citizens of another country may pay tuition in installments	1
Students who are citizens and residents of another country must pay non-resident tuition	1
Waiver of non-resident tuition for employed alien graduate student	1

Resident status for non-citizens who graduated from a state high school	1
Foreign students who receive financial assistance must return to home country within 1 year of graduation and not return to U.S. as permanent residents for at least 5 years. If these conditions are not met, non-resident tuition differential must be repaid.	1

TUITION BENEFITS FOR INDIANS

Eligibility Criteria for Tuition Benefits for Indians	Number of States that Rely on These Criteria
Scholarship for Alaska Natives (¼ Indian or Eskimo blood).	1
No tuition for resident Indians (one institution in state).	1
Special tuition-free programs for resident Indians (one institution in state).	1
Any person who is attending or has attended Haskell Indian Jr. College and who is enrolled as an American Indian on a tribal membership roll maintained by the Bureau of Indian Affairs shall be deemed a state resident for tuition purposes.	1
Waiver of tuition for any North American Indian certified by tribal association who qualifies for admission and is a legal resident of the state.	1
No fees for state residents who have ¼ Indian blood and show financial need and evidence of studious and industrious habits.	1
Enrolled members of state Indian tribes or enrolled members on any reservation which extends across the state line will be admitted as residents.	1
Resident status for any American Indian who is a member of a federally recognized or known state tribe and who has graduated from a high school in the state.	1
Resident status for any American Indian enrolled on tribal rolls of a tribe whose reservations or trust lands lie partly or wholly within the state or whose realty touches the state border.	1

TUITION BENEFITS FOR INDIANS....Continued

Scholarship for persons at least ½ Indian blood. (no residency requirements).	1
Scholarship for Seminole and Miccosukee Indians recommended by tribes.	1
Scholarship for student of Quapaw descent.	1
Community college student who is a native American is entitled to resident classification if also attending a school administered by the Bureau of Indian Affairs located within the Community College district.	1

TUITION BENEFITS FOR
PUBLIC EMPLOYEES

I. Tuition Benefits for Public School Teachers	Number of States Extending this Benefit
Person holding valid teaching credential and employees full-time by a school district is entitled to resident classification if enrollment is necessary to fulfill requirements for additional credential or fifth year of education.	1
Fee differential for education majors who sign an agreement to teach in public schools of state for at least 2 years.	1
Scholarship for special ed teachers who agree to teach in state for at least 3 years.	1
Tuition grant for teachers getting Master's degree in areas State Board determines have shortage.	1
Tuition grant to earn teaching certificate for persons with Bachelor's degeee in area State Board determines have shortage.	1
Waiver of 8 credit hours a term for a critic or supervising teacher cooperating in an education or teacher preparation program.	1
Waiver of 8 credit hours a term for a substitute for critic or supervising teacher who relinquishes tuition waiver to school district.	1
Resident classification for full-time teachers who intend to make home in the state.	1

Public School Teachers . . . continued

Resident classification for full-time public school teachers under current contract in state. Also spouse and dependent children.	1
Resident tuition for teachers who have completed one academic year teaching in public schools of state and who have contracts for the coming year. Dependent children also qualify as residents.	1
Public elementary and secondary teachers may pay resident tuition during contract term and summer session immediately following.	1
Tuition free for all public school teachers employed full-time by school districts in the state.	1
Tuition free for full-time teachers in institutions whose curricula meet statutory requirements.	1

II. Law Enforcement/Firefighters/ Other Public Employees	Number of States Extending this Benefit
Up to age 24, child of state police officer killed in line of duty qualifies for educational benefits if child has been state resident for at least three years.	1
To age 24, children of state law enforcment officers killed in line of duty recieve scholarship if show financial need.	
To age 23, children of law enforcement officers killed in line of duty pay no tuition if full-time students in a prescribed course of study.	1
Dependents of state firefighters killed or permanently disabled in line of duty get 8-semester scholarship leading to Bachelor's degree.	1
Free tuition to police officers and firefighters recommended by superiors. Full salary while part-time employed/full-time student if agree to work for city for as many years as spent as student.	1
Up to age 23, 8-semester scholarship for children of law enforcement officers killed or permanently or totally disabled in line of duty.	1
4 year scholarship (no maximum age) for children of Peace Officer killed or totally or permanently disabled.	1
Up to age 23, children of firefighters (full-time or volunteer) killed or totally disabled in line of duty get 8-semester scholarship.	1

Law Enforcement/Firefighters/Other Public Employees . . continued

Children (who become eligible before 21) of disabled Peace Officers including Prison employees and game wardens qualify for 8-semester scholarship.	1
Up to age 23, children of state law enforcement officers killed or totally disabled in line of duty get 8-semester scholarship.	1
Dependents of state law enforcement officers killed or permanently disabled in line of duty get 8-semester scholarship leading to Bachelor's degree.	1
To age 23, children of paid firefighters killed in line of duty pay no tuition if full-time students in a prescribed course of study.	1
Children (who become eligible before 21) of disabled paid or volunteer firefighters qualify for 8-semester scholarship.	1
To age 24, children of volunteer and full-time firefighters and volunteer rescue squad members killed in line of duty receive scholarship if show financial need.	1
Scholarship for children of volunteer firefighters or volunteer rescue squad members disabled in line of duty. (no age or need criteria).	1
Surviving child of state resident employed by public agency whose principal duties consist of active fire suppression or prevention killed in the performance of duty pay no tuition or fees.	1
No tuition or fees to employed firefighters enrolled in fire science courses.	1

Law Enforcement/Firefighters/Other Public Employees . . continued

Surviving child of state resident employed by public agency whose principal duties consist of active law enforcement killed in the performance of duty pays no tuition or fees.	1
Up to age 25, child of special risk professionals (peace officer, custodial or inmate-contact employee at correctional facility, firefighters, others as certified by employer) killed in line of duty is entitled to full waiver of undergraduate fees.	1
Child of state law enforcement officer or prison guard killed in line of duty or course of employment eligible for education grant.	1
Child of state firefighters killed in line of duty or course of employment eligible for education grant.	1

TUITION BENEFITS FOR
PUBLIC EMPLOYEES

III. Tuition Benefits for Peace Corps, Government Service State Employees	Number of States Extending this Benefit
State residents who had residency interrupted by service in peace corps or other similar volunteer organizations maintain residency during service.	2
Person moved into state on civil orders and dependents may qualify for resident tuition.	1
Dependents of federal employees stationed outside U.S. may qualify for resident tuition if not claiming another state as home of record.	1
Federal employees who are state residents may retain resident tuition status even if transferred out-of-state if do not establish domicile elsewhere.	1
Person who remains in state after separation from federal service may apply time spent in state as federal employee toward residency.	1
Full-time federal employee who works and resides in state is qualified for resident tuition.	1
Federal employees, their spouse, and children qualify for non-resident tuition (no dependency or hourly equivalent stated).	1

TUITION BENEFITS FOR PUBLIC EMPLOYEES

IV. Tuition Benefits for University Employees	Number of States Extending this Benefit
A. Full-time University Employees	
Full-time employees, spouse, and dependent children are entitled to resident tuition.	3
.25, .4, or .5 time or more employees, spouses, and dependent children are entitled to pay resident tuition.	4
Dependent of staff member who does not qualify for residency may pay resident tuition.	2
Full-time faculty members are entitled to pay resident tuition.	2
Full-time faculty, administrative employees, their spouses, and children are entitled to pay resident tuition.	2
Faculty and staff members and dependent children may pay resident tuition.	1
Full-time employees, spouses and children [no age or dependency requirement] are entitled to pay resident tuition.	1
Full-time employees and dependent children may pay resident tuition.	1
Resident status to employees, spouses, and dependents [no work-hour equivalent for employees].	1
Full-time employees of at least 6 mo. may enroll for up to 6 credits without payment.	1

Full-time University Employees . . . continued

Waiver of tuition and fees for part-time faculty members.	1
Waiver of tuition and fees for any employee enrolled in program to upgrade performance in position.	1
Professional career service employees of university system, spouses, and dependent students may pay resident tuition.	1

TUITION BENEFITS FOR
PUBLIC EMPLOYEES

IV. Circumstances and Criteria Under Which Tuition Benefits are Extended to Graduate Student Employee	Number of States Extending this Benefit
B. Graduate Student Employees	
Non-resident graduate students who hold teaching or research assistantships requiring at least 1/3 time service may pay resident tuition.	4
Board of Trustees waives tuition for graduate assistants at university. (no amount of service specified).	3
Graduate assistants employed at least ¼ time may pay resident tuition.	2
Out-of-state graduate students who have fellowships equivalent in value to at least a 1/3 time assistantships may pay resident tuition.	2
Board of Trustees may waive tuition for teaching assistants. (no amount of service specified).	1
Graduate student personnel appointed to certain institutional positions may have tuition reduced according to the rules of the respective institution.	1
Teaching and research assistants employed at least ¼ time may receive tuition waiver.	1
Graduate student holding appointment as fellow or intern may receive tuition waiver.	1

Graduate Student Employees . . . continued

Employment of less than ¼ time for graduate assistants, teaching assistants, and research assistants results in prorated tuition waiver.	1
Graduate assistants and graduate student fellows pay 1/3 of the resident tuition rates(s). (no minimum employment hrs. specified).	1
Teaching assists, research assistants, or other student employees who work at least ½ time may pay resident tuition.	1
Spouse and children of student employees who work at least ½ time may pay resident tuition.	1
Graduate student fellows and assistants including research assistants shall be considered as staff members.	1
Full tuition may be waived for any graduate student holding an appointment as an intern at any state-operated unit of state university.	1

TUITION BENEFITS FOR INDIVIDUALS WHEN PARENT/SPOUSE/STUDENT COMES TO STATE FOR EMPLOYMENT

Criteria Under Which Individuals May Qualify for These Benefits	Number of States Offering These Benefits
Residence stipulation may be waived if the supporting parent or guardian has relocated to state to accept employment.	5
Emancipated person who is not a full-time student may provide evidence of domicile and apply for immediate resident classification of unemancipated children.	2
Unemancipated minor who moves into state with family may qualify for immediate residence upon showing that residency in former state has been lost.	1
Spouse of emancipated person employed full-time in state may qualify for resident classification.	3
Residence stipulation may be waived if the applicant has relocated to state to accept employment.	4
Part-time student with full-time employment in state may be classified as resident.	3
Any graduate of a state high school whose parent is employed by and resides in specified national park qualifies as resident for tuition purposes.	1

ADMINISTRATIVE OR COURTESY WAIVERS OF TUITION

Circumstances and Criteria Under Which Administrative or Courtesy Waivers May be Granted	Number of States Relying on these Circumstances
State Board or Board of Regents may exercise discretionary waiver of non-resident tuition.	3
Board of Regents awards scholarships to well-qualified full and part-time students who demonstrate financial need and who have been residents for at least 5 years.	1
University president may waive out-of-state tuition without consideration of financial need for students in special categories.	1
State Senators and representatives may designate residents of district to attend specified institution tuition free.	1
State Senator and representatives may authorize non-resident tuition for one student per semester. Tuition remitted by Board of Regents.	1
Non-residents who have "special domestic relation circumstances" may pay resident tuition.	1
Dean/Director may waive non-resident tuition under "special circumstances".	1
Board of Higher Education may waive non-resident tuition for "peculiar or unusual circumstances".	1
Board of Regents may grant relief from non-resident tuition to students who present "extraordinary circumstances".	1
Standing Committee on Residence may classify a student as a resident if the student's situation presents "unusual circumstances" and the classification is within the general scope of the rules.	1

TUITION BENEFITS FOR SCHOLARSHIP RECIPIENTS

Criteria Under Which Students May Qualify	Number of States Offering this Benefit
Recipients of scholarships from Board of Regents are exempted from tuition and general or registration fees.	1
Non-resident scholarship recipients may pay in-state tuition at discretion of individual boards.	1
Non-resident recipients of competitive scholarships of at least $200 qualify for resident tuition if scholarship is recognized by university administration.	1
Full tuition for an academic term waived for undergraduate honors scholars.	1

TUITION BENEFITS FOR OUT-OF-STATE
LESS THAN SPECIFIED PERIOD

Criteria Under Which Students May Qualify	Number of States Offering this Benefit
Person domiciled in state retains residency status for 1 year after departure from state if legal residence is not established elsewhere.	2
Person who was resident for at least 2 years can qualify on 1 for 1 basis for up to 5 years.	1
Resident person who ceases enrollment and abandons state domicile may return within 12 months and qualify as resident if reestablishes state domicile.	1

TUITION BENEFITS FOR STUDENTS WHO HAVE DEFACTO GUARDIANSHIPS OF SPECIFIED DURATION

Criteria Under Which Students May Qualify	Number of States Offering this Benefit
Student who has been under continuous care and direction of adult(s) other than parents for 2 years preceding enrollment is qualified for residency if adult(s) have been domiciled in state for at least 1 yr.	1
Student who makes home with adult person in absence of formal legal designation may qualify for resident tuition if adult is resident and student has resided with him for more than one-half of the preceding 12 months.	1
Defacto guardianships of 5 years or more may qualify student for resident classification.	1
Student may base residency on person other than parent or legal guardian if relationship is that of "Hanai".	1

ACCRUED RESIDENCY FOR TUITION
PURPOSES FOR MIGRANT WORKERS

Criteria by Which Agricultural Workers May Accrue Residency	Number of States Offering These Benefits
Child of agricultural laborer or agricultural laborer who performs labor in state for at least 2 mo. per year in each of the 2 preceding years may accrue residency in the community college district in which he lives.	1
Migrant workers and their children may accrue residency if they or their parents or legal guadian were employed in the state for at least 2 months for 3 of the 5 preceding years.	1
Individuals of migrant background who are permanent residents of the U.S. and who (and/or whose parents or legal guadian) have been employed in seasonal agricultural labor in the state for a cumulative period of at least 12 months of the past 60 months qualify for resident tuition status.	1
A person employed as a migrant worker in the state and his or her dependents shall be considered resident if they have worked in the state at least 4 mo. during each of the preceding 3 years.	1

TUITION BENEFITS FOR STUDENTS SUBJECT
TO LOSS OF RESIDENCY DUE TO DIVORCE

Situations Under Which Students May Qualify for This Benefit	Number of States Offering These Benefits
Minor student of divorced parents who resided substantially in state during years of minority and for at least 12 months preceding registration may be classified as resident.	1
If non-custodial parent is resident, minor children may be classified as residents.	1
If parent who provides majority of financial support is resident, student may be classified as resident without regard to which parent has custody.	2
If non-custodial parent is resident and provides majority of financial support, student may qualify as resident if student has never enrolled in post-secondary program out-of-state.	1

TUITION BENEFITS FOR THE VISUAL AND HEARING IMPARIED

Qualifications Under Which Students May Qualify for These Benefits	Number of States Offering These Benefits
Free reader provided 3 hrs. per day to blind student who makes request.	1
Resident, needy blind student who is unable to read because of defective eyesight entitled to stipend for reader or tape recorder and attends tuition free.	1
Blind persons exempt from any tuition fee for university attendance.	1
Person who cannot see to perform ordinary activities for which eyesight is required is exempt from tuition and fees if not eligible for vocational rehab funds.	1
Person eligible for rehab services of state commission for blind is exempt from tuition.	1
Needy student from family with blind head of household qualifies for up to 36 mo. post-secondary training if begins within 2 yrs. of high school graduation.	1
Deaf person whose sense of hearing is non-functional for understanding normal conversation is exempt from tuition if eligible for services of vocational rehab division.	1

TUITION BENEFITS FOR GRADUATES
OF STATE HIGH SCHOOL

Description of Criteria Needed to Qualify for Tuition Benefits	Number of States Offering These Benefits
Graduates of a state high school are eligible for classification as residents.	1 (proposed)
Graduate of a state high school entering state college or university for first regular term following graduation is eligible for classification as resident.	1
Graduate of a state high school within 2 calendar years prior to beginning of term is eligible for resident classification.	1
Graduate of a state high school is resident for 4 consecutive years if he applies for admission within 1 calendar year of high school graduation.	1
Graduate of a state high school is resident for 4 consecutive years if his parents, parent having legal custody, or parent with whom he customarily resides has resided in the state in one of the two years immediately preceding the high school graduation.	1
Graduate of a state high school who attended at least 1 year may enroll as freshman with resident classification if he does not first enroll in an institution outside the state.	1

TUITION BENEFITS FOR SENIOR ADULTS

Circumstances and Criteria Related to Tuition Benefits for Senior Adults	Number of States Relying on These Criteria
Waiver of general student fee charges for persons 60+ enrolled in courses organized for credit. Space available basis.	2
Waiver of tuition for persons 65+ who enroll for no credit. Space available basis.	2
*Waiver of tuition for persons 62+ enrolled in degree granting program program.	*1
*Waiver of tuition for persons 62+ not enrolled in degree granting program. Space available basis.	*1
*Waiver of resident tuition for students 62+ (no credit status specified).	*1
*Free or minimal cost courses to students 62+ on space available basis.	*1
Waiver of fees for 60+ residents who attend for credit, but credit not granted for courses in which fees waived. Space available basis.	1
Waiver of tuitions for students 60+ who are auditing. Space available basis.	1
Senior citizens (no age specified) who are residents may enroll for classes offered either for credit or non-credit. Space available basis.	1
Spouse and dependent children of emancipated person fully retired to the state may qualify for resident classification.	1

*62+ seems to be the most agreed-upon age criteria

RETENTION OF RESIDENT TUITION STATUS FOR MINORS WHOSE PARENTS LEAVE THE STATE

Circumstances Under Which Minors Whose Parents Leave the State May Retain Resident Status	Number of States Relying on These Criteria
Student who remains in state after parent who was state domiciliary moves may retain resident classification with continuous enrollment. No degree requirement or time specification.	8
Classification as resident terminates one year after person on whom classification depends ceases to be state domiciliary.	4
Classification as resident terminates six months after person on whom classification depends ceases to be state domiciliary.	2
Student who remains in state after parent who was domiciled in the state moves may retain in-state classification until completion of degree for which enrolled as long as enrollment is continuous.	2
Student who remains in state after resident parent moves may retain resident status until completion of the degree for which enrolled <u>if</u> parent was state resident for specified length of time.	2
A minor student who graduates from a state high school and enters a state post-secondary institution within 8 months qualifies for resident classification until he attains the degree for which enrolled <u>if</u> parents were state residents for specified time.	1
If parents were residents for specified time before leaving state, minor may retain resident classification with continuous enrollment.	1

Minors Whose Parents Leave the State...continued

Minors whose parents were state residents for at least 3 months before transfer outside U.S. qualify as residents if enrolled within 5 years of transfer.	1
Student whose parents leave the state may retain resident classification if student has intention to make the state his permanent residence.	1
Minor student who remains in state after resident parent moves elsewhere may retain resident classification until he attains the age of majority and has resided in the state long enough to meet the residency requirement. Student must maintain continuous enrollment.	1
Student below age 19 whose parents were residents at the time of registration but left the state while the student was still a minor retains resident classification unless there is evidence that the student has subsequently abandoned such residence.	1

TUITION BENEFITS BASED ON FINANCIAL NEED

Description of Tuition Benefits for Students who Demonstrate Financial Need	Number of States Offering These Benefits
Board of Trustees may waive tuition for any person who demonstrates substantial need.	7
State educational incentive grant program provides assistance to eligible resident undergraduates.	5
Chief administrative officer may waive tuition for graduate students who received assistance as undergraduates.	1
President of institution may waive all or part of tuition of impecunions resident students.	1
State senator may present scholarship certificate to needy applicants.	1

ESTABLISHMENT OF RESIDENCY FOR EMANCIPATED MINORS

Criteria Under Which Minors may Establish their own Residence	Number of States with these Requirements
*Emancipated minor may qualify as resident with 12 months residence, parental affidavit relinquishing care, custody, and earnings. Also require proof that parents provide no financial support and evidence that minor can support himself.	*4
*Emancipated minor may establish own domicile and qualify as resident after 12 months. Must prove "financial independence".	*8
*Emancipated minor may establish own domicile and qualify as resident after 12 months. Must receive less than 50% support from parents.	*3
**Student may become bonafide resident and qualify for resident tuition status after specified time in state.	**3
*Minor may prove emancipation and domicile through "convincing evidence" including statement from parents of financial independence and separate domicile.	*1
**Minor must provide "adequate and satisfactory proof" of complete emancipation plus 12 months residence after establishment of domicile.	**1
**Person, regardless of age, may submit evidence of residency on his own behalf.	**1

*Definite financial criteria
**No definite financial criteria

TUTION BENEFITS FOR STUDENTS WITH SKILL IN SPECIFIED AREAS

Circumstances and Conditions of Exemption	Number of States Granting this exemption
Waiver of tuition for non-residents to attract students who have skills or abilities which will contribute positively to the academic environment of faculty and students in state universities, i.e., - special skills in music, drama, fine arts	1
Waiver of tuition for non-residents to attract students who have special skills in athletics	2
Waiver of tuition for non-residents who have high academic abilities	1
Waiver of fees and tuition to encourage enrollment for instruction in occupations critical to the state	1
Tuition refund to resident medical students who practice in the state. Refund on a 1-1 basis	1

Note: Se also: Benefits for Public School Teachers

Residency Classification and Tuition Benefits for Military Personnel, Their Spouses, and Dependent Children

(p. 1 of 3)

Benefit Conferred	Number of States Offering This Benefit
Military stationed in this state are residents for tuition purposes unless sent to state for educational purposes	30
Children of military stationed in state pay resident tuition	30
Free tuition to children of deceased veterans	25
Spouse of military stationed in state is resident for tuition purposes	24
Free tuition to children of P.O.W.; loss of eligibility not mentioned	16
Free tuition to children of M.I.A.; loss of eligibility not mentioned	13
Free tuition to children of totally disabled veterans	12
Free tuition to children of M.I.A.; vested interest	11
Military personnel who have maintained this state as home of record may return to state and qualify as residents	9
Free tuition to active members of state national guard	8
Unremarried widow of deceased vet gets tuition-free education	8
Veterans who had this as home of record qualify as residents upon return to state	6
Free tuition for children of National guardsmen killed in line of duty	6
Veterans who retire to this state qualify as residents for tuition purposes	5
Free tuition to service veterans-no disability requirement	4
Free tuition to wives of P.O.W.s; loss of benefits not mentioned	4

Free tuition to wife of P.O.W.; vested interest	4
Free tuition to wife of M.I.A.; loss of benefits not mentioned	4
Free tuition to wife of M.I.A.; vested interest	4
Free tuition to wife of totally disabled vet	4
Children of military who are stationed elsewhere but who have this as their home of record are residents for tuition purposes	4
Free tuition to children of partially disabled vets	4
Time spent as military stationed in state can be credited toward meeting residency requirement upon return to state	4
Spouses of military who are stationed elsewhere but who have this as their home of record are residents for tuition purposes	3
Free classes for Vietnam veterans	3
Military assigned to duty outside U.S. are considered residents of state in which they were stationed before overseas transfer	2
Free tuition to retired national guardsmen of state	2
Free tuition for returned P.O.W.s	2
Spouses of veterans who retire to this state qualify as residents for tuition purposes	2
Children of veterans who retire to this state qualify as residents for tuition purposes	2
Free tuition to spouse of national guardsmen killed in line of duty	2
Tuition benefits to nurses of WWI	2
Free extension or correspondence courses for veterans	1
Military who had this state as final duty station may be classified as residents for tuition purposes	1
Military stationed in state who have this as home of record are considered residents while stationed in state	1
Free tuition to returned M.I.A.'s	1
Persons receiving veteran's benefits may defer payment of tuition and fees until benefits are received	1

Military continued...(p. 3 of 3)

Credit for courses 75% completed if called to active duty	1
Tuition benefits to children of totally disabled national guardsmen of state	1
Free tuition to children of returned Prisoners of War	1
Scholarship for residents of soldiers' and sailors' childrens' home	1
Spouse and children of military stationed elsewhere may establish residency in state	1
Spouse of partially disabled veto gets tuition benefits	1
Free tuition to spouse of totally disabled national guardsmen of state	1
Institution may charge non-resident fee to government agency providing benefits	1
Post graduate study for child of veteran killed in WWII who speaks and writes at least 2 Chinese dialects	1

University of Houston
University Park
Houston, Texas 77004

Institute for Higher Education Law and Governance
Farish Hall Suite 415
(713) 749-2557

POSTSECONDARY RESIDENCY REQUIREMENTS:

EMPOWERING STATUTES AND GOVERNING TYPES

Michael A. Olivas

Associate Professor of
Law and Education
University of Houston,
University Park
Houston, TX 77004

These data summarize the various state requirements to qualify for residency status, and list the empowering statutes. The data fall into five types:

I The state legislature determines residency policies (20 states)

II The state legislature explicitly gives this power to a state agency or coordinating board (7 states)

III The state legislature explicitly gives this power to a state institution (1 state)

IV The state code is silent on this power, and a state agency has assumed the power (7 states)

V The state code is silent on this power, and state institutions have assumed the power (16 states)

As the footnotes indicate, the five types are not always "pure types." States sometimes do not behave according to their own codes, or the locus of authority is shared at several levels.

If a state has a durational requirement, it is designated as residency, with the requisite time period listed as it appears in the statute, regulation, or institutional catalog. If there is a requirement that students intend to make the state their permanent abode, the requirement is listed as domicile, with any duration period also required. While a person may hold several residences, a person can only have one domicile. In truth, however, several states equate the two, or have policies that equate the two concepts. States also incorrectly require one or the other and mislabel the practice. In Type III or V states,

where an institution determines its own policies, an institutional example is given, in parentheses, along with its residency or domicile requirement. For the instances of Type II and IV states, where a state agency determines policy, the state code or regulatory provision is noted in brackets, as is the title of any agency manual.

Finally, several states have different provisions for financial aid eligibility. In several of these states, a student may gain residency status more easily than financial aid eligibility. These provisions are noted in the final column.

N.B. These data are part of a larger national study being conducted by The Institute for Higher Education Law and Governance, University of Houston. For additional studies or information, contact the Institute.

Summary of Requirements to Qualify
As Resident for Tuition Purposes
And Listing of Empowering Statutes

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Alabama	V	ALA. CODE Title 16 § 16-5-10	domicile, 12 months (University of Alabama)	ALA. CODE Title 16 § 16-33A-1(2) domicile, 12 months
Alaska	V	ALA. STAT. § 14.40.170a(6)	residence, 12 months (University of Alaska)	ALA. STAT. § 14.40.806(4) domicile, 24 months
Arizona	I	ARIZ. REV. STAT. § 15-1802A	domicile, 12 months	
Arkansas	V	ARK. STAT. ANN. § 80-3301	domicile, 12 months (University of Arkansas)	

State	Type	Citation	Requirement (Institutioanl example) [State Agency]	Financial Aid
California	I	CAL. EDUC. CODE Part 41, § 68000, et. seq.	domicile, 12 months	
Colorado	I	COL. REV. STAT. § 23-7-102(5)	domicile, 12 months	
Connecticut	I	CONN. GEN. STAT. § 10-329f	domicile, 6 months	
Delaware	V	DEL. CODE Title 14 § 5106	domicile, 12 months (University of Delaware)	

State	Type	Citation	Requirement (Instutional example) [State Agency]	Financial Aid
District of Columbia	V	D.C. Law 1-36 § 31-1711	domicile, 90 days 1/ (University of District of Columbia)	
Florida	II	FLA. STAT. § 240.203	domicile, 12 months (State Board of Education Rule 6C-7.05)	State tuition voucher: residence, 24 months § 240.401 Scholarship: domicile, 24 months § 240.402 State student assistance grant: domicile, 24 months § 240.409 Student Financial Aid Scholarship Fund Loan: residence 36 months § 240.415 Student Loan Trust Fund Loan: domicile, 12 months § 240.439, § 240.445
Georgia	II	GA. CODE ANN. § 32-169	domicile, 12 months (Board of Regents of the University System of GA. [Manual for Interpreting Residence Status]	
Hawaii	I	HA. REV. STAT. 304-4	residence, 12 months	

footnote

1/ Only public senior institution in D.C.

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Idaho	I	IDAHO CODE § 33-3717	domicile, 12 months	
Illinois	V	ILL. ANN. STAT. Chapter 144 § 190	residence, 6 months (Governors State University)	
Indiana	V	IND. CODE ANN. § 20-12-1-1	residence, 12 months (Indiana Universtiy)	residence, 6 months § 20-12-21.5-7
Iowa	IV	IOWA CODE § 262(9)3	domicile, 12 months [Iowa State Board of Regents. Iowa Administrative Code 720-1.4(1)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Kansas	I	KAN. STAT. § 76-729	residence, 12 months	
Kentucky	V[2/]	KY. REV. STAT. § 164.030		
Louisiana	V	LA. REV. STAT. ANN. § 17.3351	residence, 12 months (Southern Universtiy)	

footnote

[2/] IV practice is followed in Kentucky; domicile, 12 months KAN. STAT. § 164.020(3)

State	Type	Citation	Requirement (Institutional Example) [State Agency]	Financial Aid
Maine	V	MAINE REV. STAT. ANN.[3/] 20-A § 10902.2.A., 1983	domicile, 12 months (University of Maine)	
Maryland	V	MD. EDUC. CODE ANN.[4/] § 13-104(b)(i)	domicile, 6 months (University of Maryland)	
Massachusetts	V	MASS. GEN. LAWS ANN. [5/] Chapter 75 § 1	domicile, 12 months (University of Massachusetts)	

footnotes

[3/] See Black and Gildard v. Sullivan (61 F. Supp 1050, 1983) regarding domicile. Universtiy of Maine is the only Public Senior institution in the State.

[4/] See Toll v. Moreno (102 S. Ct. 2977, 1982)

[5/] Board of Regents newly authorized, not yet reorganized

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Michigan	V	MICH. COMP. LAWS ANN. §§ 390.3	domicile, 12 months (University of Michigan)	
Minnesota	II	MINN. STAT. § 136.11	domicile, 12 months [State University Board (Common Policy)]	
Mississippi	I	MISS. CODE ANN. § 37-103 et. seq.	domicile, 12 months	
Missouri	II	MO. REV. STAT. Appendix B 6-2 (1978)	residence, 12 months [Coordinating Board for Higher Education (Residency Determination Procedure, 6 CSR 10-3.010, 1981)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Montana	I	MON. REV. CODE ANN. § 20-25-501	domicile, 12 months	
Nebraska	I	NEB. REV. STAT. § 85-501	domicile, 180 days	
Nevada	I	NEV. REV. STAT. § 396-540	residence, 6 months	
New Hampshire	III	N.H. REV. STAT. ANN. § 187:29(II)	domicile, 12 months[6/] (University of New Hampshire System)	

footnote

6/ Only public senior institution in the state

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
New Jersey	I	N.J. STAT. ANN. § 18A:62-4	domicile, 12 months	
New Mexico	II	N.M. STAT. ANN. § 21-1-4	domicile, 12 months, [Board of Educational Finance (Finance Policy on Residence Status)]	
New York	I	N.Y. EDUC. LAW § 302.1 (SUNY) § 6301.4 (4 year colleges)	domicile, no time specified (SUNY) residence, 12 months (4 year colleges)	domicile, 1 term § 302.1(6)(b)
North Carolina	I	N.C. GEN. STAT. § 116-143.1	domicile, 12 months	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
North Dakota	I	N.D. CENT. CODE § 15-10-19	domicile, 12 months	
Ohio	IV	OHIO REV. CODE § 3333.04(0)	domicile, 12 months [Ohio Board of Regents (OBR 333-1-10)]	
Oklahoma	IV	OKLA. STAT. Title 70 § 3206(m)	domicile, 12 months [Oklahoma State Regents for Higher Education (Residence Status of Enrolled Students in the Oklahoma State System of Higher Education Sec. 8)]	
Oregon	IV	OR. REV. STAT. § 351.070	domicile, 6 months [Board of Higher Education, (OAR 580-10)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Pennsylvania	IV	PA. STAT. ANN. Title 24 § 20-2003.2(8)	domicile, 12 months [PA. Board of State College and University Directors] 22 § 153.1	domicile, 12 months 24 § 5154
		22 § 46.5 (Commonwealth Institutions) 1/	domicile, 12 months (Commonwealth Institutions ex: University of Pittsburg)	
Rhode Island	IV	R.I. GEN. LAWS § 16-31-5	domicile, 12 months [Board of Governors for Higher Education (Regulations on determination of Residency)]	
South Carolina	I	S.C. CODE § 59-112-20	domicile, 12 months	

footnotes

1/ According to 22 § 46.5, regulations in practice are to be promulgated by State Auditor General. However, Commonwealth institutions determine their own residency requirements

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
South Dakota	II	S.D. COMP. LAWS ANN. § 13-49-1	domicile, 12 months [State Board of Regents (Resident and non-resident tuition, 1.2.2.)]	
Tennessee	V	TENN. CODE ANN. § 49-3342	domicile, no time specified (University of Tennessee)	
Texas	I	TEX. EDUC. CODE Title 3 § 54.052	domicile, 12 months	
Utah	I	UTAH CODE ANN. § 53-34-2.2	domicile, 12 months	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Vermont	V	VT. STAT. CODE § 2282	domicile, 12 months (Vermont State College)	domicile, 12 months § 2822
Virginia	I	VA. CODE § 23-7	domicile, 12 months	
Washington	I	WASH. REV. CODE § 28B.15	domicile, 12 months	
West Virginia	IV	W. VA. CODE § 18-26-8	domicile, 12 months [West Virginia Board of Regents (Policy Bulletin No. 34)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Wisconsin	II	WIS. STAT. § 36.27	domicile, 12 months [Board of Regents of University of Wisconsin System (Wis. Adm. Code U.W.S. 20)]	
Wyoming	V	WYO. STAT. § 27-17-204	domicile, 12 months (University of Wyoming)[8/]	

---

footnote

[8/] The only public senior institution in the state